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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,272	05/17/2005	Makoto Gohda	03500.018195.	5979
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EXAMINER				
BELTOWSKI, JARED D				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/535,272

Applicant(s)

GOHDA, MAKOTO

Examiner

Jared Beltowski

Art Unit

2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 May 2005.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-13 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 17 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. **Claim 12 is rejected under 35 U.S.C. 101** because the claimed invention is directed to non-statutory subject matter. “Functional descriptive material” consists of data structures and computer programs which impart functionality when employed as a computer component. This type of “descriptive material” is nonstatutory when claimed as descriptive material per se, 33 F.3d at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994) See MPEP §2106.01 for further information.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 1-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese Patent Publication 2001-084705 A (Makoto et al).** The attached document is a machine translation of the original Japanese-language publication. For clarification, refer to U.S. Patent 6,871,205 which relies on said publication.
6. **In regard to claim 1,** Makoto et al. disclose a recording apparatus for recording motion image data onto a disc-like recording medium comprising: file generating means for forming the motion image data into a file according to a procedure relating to QuickTime file format (paragraph 13, file generating machine); and recording means for effecting recording as to the file generated by the file generating means (paragraph 17), to record data unit including reference information included in the file in a first recording area on the disc-like recording medium (paragraphs 33 and 58) and data unit including video data included in the file in a second recording area on the disc-like recording medium (paragraph 15).
7. **In regard to claim 2,** Makoto et al. disclose an apparatus according to claim 1, wherein the recording means records the data unit including the reference information (paragraph 34) in the first recording area capable of high speed access on the disc-like recording medium, and the data unit including the video data into the second recording area (paragraph 34) having a slower access speed than the first recording area. Makoto et al. suggest that the first recording area be implemented in the most-inner-circumference position (paragraph 58). In this configuration, the first recording area would be accessed more quickly than the second recording area as the optical pickup must move farther to access the second recording area.
8. **In regard to claim 3,** Makoto et al. disclose an apparatus according to claim 2, wherein the recording means is arranged so that the first recording area is disposed on an inner peripheral

portion of the disc-like recording medium while the second recording area is disposed on an outer peripheral portion of the disc-like recording medium (paragraph 58).

9. **In regard to claim 4**, Makoto et al. disclose an apparatus according to claim 1, wherein the recording means distinguishes between the first recording area and the second recording area by recording an area file for securing a recording area on the disc-like recording medium (paragraph 58).

10. **In regard to claim 5**, Makoto et al. disclose an apparatus according to claim 1, wherein the data unit including the reference information is "movie" file which is specified by QuickTime while the data unit including the video data is "media data" file which is specified by QuickTime (paragraphs 58 and 39).

11. **In regard to claim 6**, Makoto et al. disclose an apparatus according to claim 1, further comprising: imaging means for generating the motion image data by photographing operation (paragraph 9, image sensor), wherein the file generating means carries out forming of the motion image data generated by the imaging means into a file in parallel to the photographing operation (paragraph 12), and the recording means records the file generated by the file generating means on the disc-like recording medium (paragraph 14).

12. **In regard to claim 7**, Makoto et al. disclose an apparatus according to claim 6, further comprising: compressing means for compressing the information amount of the motion image data picked up by the imaging means (paragraph 9, video encoder), wherein the file generating means forms the motion image data compressed by the compressing means into a file according to the procedure relating to the QuickTime file format (paragraph 12).

13. **In regard to claim 8**, Makoto et al. disclose an apparatus according to claim 6, further comprising: a memory for storing the data unit including the reference information (paragraph 14, memory), wherein the file generating means carries out forming of the motion image data generated by the imaging means into a file in parallel to the photographing operation (paragraph 12), outputs the data unit including the reference information included in the file to the memory which stores it, and outputs the data unit including the video data included in the file to the recording means (paragraph 14), and wherein the recording means records the data unit including the video data on the disc-like recording medium and after recording of the data unit including the video data ends, reads out the data unit including the reference information stored in the memory and records it on the disc-like recording medium (paragraph 17).

14. **In regard to claim 9**, Makoto et al. disclose a recording/reproducing apparatus for recording/reproducing motion image data onto a disc- like recording medium, comprising: file generating means for forming the motion image data into a file according to a procedure relating to QuickTime file format (paragraph 13, file generating machine); recording means for effecting recording as to the file generated by the file generating means (paragraph 17), to record data unit including reference information included in the file in a first recording area on the disc-like recording medium and data unit including video data included in the file in a second recording area on the disc-like recording medium (paragraphs 33 and 58); and reproducing means for reading out a file recorded on the disc-like recording medium by the recording means from the first recording area and the second recording area to reproduce the file (paragraph 20).

15. **In regard to claims 10 and 11**, Makoto et al. disclose a recording method for recording motion image data onto a disc-like recording medium as performed by the apparatus of claim 9. See above for reference.

16. **In regard to claims 12 and 13**, Makoto et al. disclose a recording method for recording motion image data onto a disc-like recording medium executed by a computer as performed by the apparatus of claim 9. See above for reference.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jared Beltowski whose telephone number is (571) 270-7120. The examiner can normally be reached on Monday-Friday, 7:30 am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on (571) 272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jared Beltowski/

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Examiner, Art Unit 2621

/Thai Tran/

Supervisory Patent Examiner, Art Unit 2621